

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

R.C. Rev. No. 448 of 2006()

RCA.107/2004 of II ADDL.DISTRICT COURT,ERNAKULAM
RCP.37/2000 of ADDL.MUNSIFF & RENT CONTROL COURT,KOCHI
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REVISION PETITIONER/APPELLANT/RESPONDENT

P.F.JACOB, AGED 59 YEARS,
S/O.FRANCIS, CARRYING ON BUSINESS,
AT DOOR NO.CC 8/1756, KOOVAPADAM, KOCHI-2.

BY ADV. SRI.K.L.JOSEPH

RESPONDENTS: PETITIONER

1. M.A.PAUL, AGED 55,
S/O.M.P.ANTONY, RESIDING AT MADAPARAMBIL HOUSE,
C.C.NO.IX/1248, MANTHRA ROAD, KOCHI-682 002,
EMPLOYED AS DIESEL MECHANIC IN NATIONAL
PETROLEUM CONSTRUCTION COMPANY, POST BOX NO.2058,
ABU DHABI, UAE.
2. MRS.ALICE PAUL, AGED 40 YEARS,
W/O.M.A.PAUL, RESIDING AT MADAPARAMBIL HOUSE,
CC IX/1248, MANTHRA ROAD, COCHIN-2.

BY /

THIS RENT CONTROL REVISION HAVING COME UP FOR
ADMISSION ON 22/01/2007, THE COURT ON THE SAME DAY
PASSED THE FOLLOWING:

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ
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R.C.R. NO. 448 OF 2006

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Dated this the 22nd day of January 2007

ORDER

Udayabhanu,J

The revision petitioner is the tenant in RCP No. 37/2000 and the appellant in R.C.A. No. 107/2004 in which the findings were against him from both the courts below. The landlord/petitioner had sought for eviction of the shop room of the petitioner as well as 4 other tenants and the above RCPs as well as RCAs were disposed of vide common orders. Over the orders revision petitions were filed in the other matters and the same were dismissed at the admission stage itself granting three months time to surrender vacant possession. The case of the landlord/petitioner is that he was working abroad for the past 23 years as a diesel engine mechanic and at present he is unable to continue in the above employment as he is unable to cope with the physical exercise involved in the job. Hence he purchased the building in which the petition schedule premises is situated with the intention to start a super market in consumer items. It was found that the need set up is bonafide and that the petitioner has got the required capital and ability to run the business and that he has no other rooms of his

own and that the revision petitioner is not entitled to the protection of second proviso to section 11(3) of the Kerala Buildings (Lease and Rent Control) Act.

2. Considering the judgment of the courts below we find no grounds to interfere the findings as the same are well supported by cogent reasons. Hence we find that the revision petition filed is not liable to be admitted and the same would stand dismissed. The review petitioner is directed to surrender vacant possession of the premises to the petitioner/landlord within three months from today onwards on condition that he shall remit the entire arrears of rent if any and continue to remit the rent due in future and file an affidavit before the Execution Court within 20 days from today onwards undertaking that he shall surrender the vacant possession of the premises on or before 22.05.2007.

The R.C.R is dismissed accordingly.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE.

R.C.R. NO. 448 OF 2006

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